

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 97-CR-50021-01

vs.

HON. BERNARD A. FRIEDMAN

ERVIN JUNIUS THORNTON II,

Defendant.

**ORDER TRANSFERRING DEFENDANT'S MOTION UNDER 28 U.S.C. § 2255 TO VACATE,
SET ASIDE, OR CORRECT HIS SENTENCE TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT**

Defendant has filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence [docket entry 540]. In this motion, defendant asserts three claims of ineffective assistance of counsel. The instant motion appears to be a second or successive § 2255 motion, the first such motion having been filed on February 25, 2002 [docket entry 431]. A second or successive § 2255 motion “must be certified as provided in section 2244 by a panel of the appropriate court of appeals” 28 U.S.C. § 2255. When, as in this case, a second or successive § 2255 motion is filed without the required certification, the district court is required to transfer the motion to the court of appeals. *See In re Hanserd*, 123 F.3d 922, 934 (6th Cir. 1997). Accordingly,

IT IS ORDERED that defendant's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

Dated: May 12, 2020
Detroit, Michigan

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on May 12, 2020.

Ervin Junius Thornton, II #19919-039
Coleman I
U.S. Penitentiary
Inmate Mail/Parcels
P.O. Box 1033
Coleman, FL 33521

s/Johnetta M. Curry-Williams

Case Manager